

PUBLIC NOTICE 08-13

**NOTICE OF PROPOSED ADMINISTRATIVE ORDER AND OPPORTUNITY
TO COMMENT**

RESPONDENT: James A. Whyte
d.b.a. R. J. Whyte & Sons
64 Main Street
Freeville, NY 13068

SITE/FACILITY: R. J. Whyte & Sons
64 Main Street
Freeville, NY 13068

PERMIT NUMBER: Not applicable

DOCKET NO. SDWA-02-2008-8509

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COMPLAINANT: Dore Laposta, Director
Division of Enforcement and
Compliance Assistance
U.S. EPA, Region 2
290 Broadway
New York, NY 10007-1866

PUBLIC COMMENT PERIOD: 30 days from publication date

SUMMARY & DESCRIPTION OF VIOLATION: EPA is providing notice of a proposed administrative order for alleged violations of the Safe Drinking Water Act (Act). EPA is also providing notice of opportunity to comment on the proposed administrative order.

Part C of the Safe Drinking Water Act ("SDWA") specifically mandates regulation of the underground injection of fluids through wells to ensure that the quality of underground sources of drinking water is protected. Section 1422 of the SDWA requires the EPA to administer UIC programs in states that do not have approved UIC programs. New York has not acquired primacy over the UIC program pursuant to 40 C.F.R. Part 147 and, therefore, the EPA administers the program in New York.

The Complaint addresses two wells that are owned/operated by James A. Whyte, d.b.a. R. J. Whyte & Sons (“Respondent”).

Respondent, without authorization by rule or permit, injected wastewater into floor drains discharging to injection wells. Respondent therefore failed to comply with 40 C.F.R. §144.11.

The fluids were injected into or above a local aquifer, which is an underground source of drinking water (USDW), as defined in 40 C.F.R. §144.3 and §146.3. Respondent's actions may have caused a violation of primary drinking water regulations or may otherwise adversely affect the health of persons and, therefore, Respondent is in violation of 40 C.F.R. §144.12.

RELIEF SOUGHT: Respondent shall be ordered to cease injection and submit a complete permit application or approvable closure plan. If a closure plan is submitted, Respondent shall close the wells accordingly.

FOR FURTHER INFORMATION: Douglas McKenna, Chief, Water Compliance Branch, EPA Region 2, 290 Broadway, 20th Floor, New York, New York 10007 (212) 637-3767.

Persons wishing to receive a copy of EPA's Consolidated Rules, or review documents filed in these proceedings, comment upon the proposed assessments, or otherwise participate in any of the proceedings, should contact the person named above. Unless otherwise noted, the administrative record for these proceedings is located in the EPA Regional Office identified above, and the files will be open for public inspection during normal business hours. All pertinent information submitted by the Respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information.